

These are the minutes of the regular meeting of the Texas Transportation Commission, which was held on December 13, 2007 in Austin, Texas. The meeting opened at 9:03 a.m. with the following commissioners present:

**Texas Transportation Commission:**

Ric Williamson	Chair
Hope Andrade	Commissioner
Ted Houghton, Jr.	Commissioner
Ned Holmes	Commissioner
Fred Underwood	Commissioner

**Administrative Staff:**

Amadeo Saenz, Executive Director  
 Bob Jackson, General Counsel  
 Roger Polson, Executive Assistant to the Deputy Executive Director  
 Dee Hernandez, Chief Minute Order Clerk

Registration sheets listing others in attendance are on file with the Texas Department of Transportation Chief Minute Clerk.

A public notice of this meeting containing all items on the proposed agenda was filed in the Office of the Secretary of State at 2:32 p.m. on December 5, 2007, as required by Chapter 551, of the Government Code, referred to as "The Open Meetings Act."

**ITEM 1. Public Hearing – Project Selection – Under Transportation Code, §201.602, this public hearing is to receive data, comments, views and/or testimony concerning the commission's highway project selection process and the relative importance of the various criteria on which the commission bases its project selection decisions relating to the 2009 Unified Transportation Program.**

This item was presented by Transportation Planning and Programming Division Director Jim Randall.

**ITEM 2. Approval of Minutes of the November 15, 2007 regular meeting of the Texas Transportation Commission**

Commissioner Underwood made a motion, seconded by Commissioner Houghton, and the commission approved the minutes of the November 15, 2007 regular meeting of the Texas Transportation Commission.

A certificate of service was presented to Shawna Russell for 10 years of service with the department.

**ITEM 3. AVIATION****Approve funding for airport improvement projects at various locations (MO)**

Commissioner Holmes made a motion, seconded by Commissioner Houghton and the commission approved the following minute order presented by Aviation Division Director Dave Fulton:

111161  
AVN

The Texas Department of Transportation (department) is authorized under Transportation Code, Chapter 21 and Chapter 22, to assist in the development and establishment of airports in the State of Texas.

The airports listed in Exhibit A are currently in need of improvements to preserve the airports or to meet standards. Due to the interest on the part of the airport sponsors, the department recommends that the improvements be funded.

On Thursday, November 8, 2007, a public hearing was held. No comments were received.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that the executive director, or the director's designee, is authorized to enter into any necessary agreements to fund, through the Aviation Facilities Grant Program, the projects described in Exhibit A at an estimated cost of \$7,760,533.

Note: Exhibit A on file with minute order clerk.

**ITEM 4. PUBLIC TRANSPORTATION****Reallocation of FY 2007 Federal §5310, Elderly and Persons with Disabilities Program, funds for Laredo and Pharr Districts (MO)**

Commissioner Andrade made a motion, seconded by Commissioner Houghton and the commission approved the following minute order presented by Public Transportation Division Director Eric Gleason:

111162  
PTN

The Texas Transportation Commission (commission) takes special note of its designation by the governor as the administering agency for the Federal Transit Administration (FTA) grant program, Formula Grants and Loans for Special Needs of Elderly Individuals and Individuals with Disabilities (49 U.S.C. §5310), in a letter dated October 4, 2005; and further acknowledges that federal program regulations require the Texas Department of Transportation (department) to ensure that grant funds are distributed fairly and equitably within the state.

On March 29, 2007, Minute Order 110879 was approved by the commission for the FY 2007 program of projects for the §5310 elderly and persons with disabilities grant program, in accordance with the formula prescribed in 43 TAC §31.31(g) and other requirements of the Federal Transit Act. Various projects approved for the Laredo and Pharr Districts need to be revised as identified in Exhibit A.

Transportation Code, Chapter 455 assigns a broad spectrum of public transportation roles and missions to the department.

Transportation Code, Chapter 456 authorizes the commission to administer funds appropriated for public transportation.

IT IS THEREFORE ORDERED by the commission that the executive director or the director's designee is directed to proceed with the allocation of these §5310 elderly and persons with disabilities grant program funds as identified in Exhibit A, notify the entities in writing, and enter into the necessary contracts for the FY 2007 program of projects.

Note: Exhibit A on file with minute order clerk.

#### **ITEM 5. REPORT**

##### **Status report on Trans-Texas Corridor (TTC) 35 and I-69/TTC**

This item was presented by Texas Turnpike Authority Division Director Phillip Russell.

#### **ITEM 6. DISCUSSION ITEMS**

##### **a. Discussion of impacts of near- and mid-term cash flow projections on system operations and resource reallocation**

This item was presented by Deputy Executive Director Steve Simmons. The commission received comments from Pete Sepulveda, Cameron County Regional Mobility Authority Coordinator; and John Shackett, Rodriguez Transportation Group.

##### **b. Federal legislative priorities**

This item was presented by Government and Public Affairs Division Director Coby Chase.

#### **ITEM 7. ETHICS POLICY**

##### **Adoption of employee ethics policy (MO)**

Commissioner Houghton made a motion, seconded by Commissioner Andrade and the commission approved the following minute order presented by General Counsel Bob Jackson:

111163  
OGC

One of the greatest assets the Texas Department of Transportation (department) has is its reputation for being an ethical organization whose employees conscientiously strive to preserve and promote that reputation by being good stewards of the State's resources.

Government Code, §572.051 was amended in the 80th Legislative Session to require each state agency to adopt a written ethics policy and distribute it to each employee.

The department has existing policies in its Human Resources Manual that govern the ethical behavior of its employees.

The Texas Transportation Commission (commission) desires to place special emphasis on the ethical principles employed by the department by formally and publicly adopting a policy that sets uniform standards of ethical conduct for all employees.

IT IS THEREFORE ORDERED by the commission that the ethics policy attached as Exhibit A is hereby adopted.

IT IS FURTHER ORDERED that the executive director or his designee is directed to provide a copy of this policy to each employee of the department.

Note: Exhibit A on file with minute order clerk.

#### **ITEM 8. TRANSPORTATION PLANNING**

**a. Marion and Matagorda Counties – Certify two additional eligible counties for the 2008 Economically Disadvantaged Counties Program and establish local match adjustment for each county (MO)**

Commissioner Andrade made a motion, seconded by Commissioner Holmes and the commission approved the following minute order presented by Transportation Planning and Programming Division Director Jim Randall:

111164  
TPP

Section 222.053, Transportation Code defines an “economically disadvantaged county” as a county that has, in comparison to other counties in the state: (1) below average per capita taxable property value; (2) below average per capita income; and (3) above average unemployment.

Section 222.053 directs the Texas Transportation Commission (commission), when evaluating a proposal for a highway project in a political subdivision that consists of all or a portion of an economically disadvantaged county, to adjust the minimum local matching funds requirement after evaluating the political subdivision's effort and ability to meet the requirement. The commission is also required to certify a county as an economically disadvantaged county on an annual basis as soon as possible after the comptroller reports on the economic indicators listed above.

43 TAC §15.55 establishes the criteria that the commission will consider in determining the adjustment to the local matching funds requirement and a local government's effort and ability to meet the requirement.

The commission certified the 2008 list of counties eligible for the Economically Disadvantaged Counties Program by Minute Order 111080, dated September 27, 2007.

On November 11, 2007, the Comptroller of Public Accounts provided additional data that indicated Marion and Matagorda counties would be eligible for the Economically Disadvantaged Counties Program for 2008. The counties' efforts and ability to provide a local match has been considered using the criteria set forth in 43 TAC §15.55. Exhibit A lists the eligible counties and their respective recommended local match adjustments.

IT IS THEREFORE ORDERED by the commission that the 2008 list of counties eligible for the Economically Disadvantaged Counties Program, as amended to include Marion and Matagorda counties and shown in Exhibit A, is certified and the local match adjustment for each county is established.

Note: Exhibit A on file with minute order clerk.

**b. Various Counties – Accept the annual 2008-2009 Port Capital Program submitted by the Port Authority Advisory Committee (MO)**

Commissioner Andrade made a motion, seconded by Commissioner Houghton and the commission approved the following minute order presented by Transportation Planning and Programming Division Director Jim Randall:

111165  
TPP

Transportation Code, Sections 55.006 and 55.007, require the Texas Transportation Commission (commission) to appoint a seven-member Port Authority Advisory Committee (committee) with the following duties:

- 1) prepare a port mission plan;
- 2) review each project eligible to be funded under this chapter and make recommendations for approval or disapproval to the Texas Department of Transportation (department);
- 3) maintain trade data information that will assist ports in this state and international trade;
- 4) annually prepare a list of projects that includes recommended funding levels for each project and, if necessary for staged implementation of the project, the funding requirements for each stage; and
- 5) advise the commission and the department on matters relating to port authorities.

Transportation Code, Section 55.008 requires the committee to develop a two-year Port Capital Program defining the goals and objectives of the committee concerning the development of port facilities and an intermodal transportation system. In addition, this section requires the committee to update the Port Capital Program annually and submit it to the governor, the lieutenant governor, the speaker of the house of representatives, and the commission.

The committee met on December 6, 2007 and formally adopted the 2008-2009 Port Capital Program and submitted the program to the department.

IT IS THEREFORE ORDERED by the commission that the 2008-2009 Port Capital Program as shown in Exhibit A is accepted and will be further distributed as required by statute.

Note: Exhibit A on file with minute order clerk.

**ITEM 9. OPTION TO PURCHASE**

**Dallas County – Authorize the negotiation of options to purchase for the advance acquisition of right of way for a new location toll project SH Loop 9 from I-20 to the Dallas/Ellis county line (MO)**

Commissioner Houghton made a motion, seconded by Commissioner Holmes and the commission approved the following minute order presented by Right of Way Division Director John Campbell:

111166  
ROW

In DALLAS COUNTY, a project has been proposed for a new location toll project STATE HIGHWAY LOOP 9 (SH Loop 9), from Interstate 20 to the Dallas/Ellis county line, south of the cities of Cedar Hill, DeSoto, Lancaster, Wilmer, Seagoville, and Dallas, a distance of approximately 35 miles.

The Texas Transportation Commission (commission) finds that use of options to acquire property in connection with the SH Loop 9 project may reduce the time required for acquisition of right of way and can be economically beneficial to the state by either establishing the purchase price at current market value as of the date of the option contract or establishing a methodology for determining a purchase price at the time the option is exercised without the necessity for condemnation, and/or agreeing to restrictions on the owner's future development and improvement of the property. Successful negotiation of options for this project will help preserve the transportation corridor and benefit both the public and land owners along the proposed route.

Although construction of the project is not yet authorized and no final determination has been made on the alignment of the project, preserving the transportation corridor for completion of the SH Loop 9 project is essential and urgent, as there is significant risk of impending commercial, industrial and residential development.

Transportation Code, §201.103 authorizes the commission to plan and make policies for the location, construction, and maintenance of a comprehensive system of state highways and public roads as well as toll projects. Transportation Code, §§203.051 and 203.052 authorize the commission to acquire an interest in real property that the commission determines is necessary or convenient to a state highway or toll project, including property necessary or convenient to protect a state highway or toll project or to accomplish any other purpose related to the project location, construction, improvement, maintenance, beautification, preservation, or operation.

Transportation Code, §202.112 authorizes the commission to purchase an option to acquire property for possible use in, or in connection with, a transportation facility before a final decision has been made as to whether the transportation facility will be located on that property.

IT IS THEREFORE ORDERED by the commission that the Dallas district engineer is authorized to negotiate with property owners along the proposed route of SH Loop 9 and execute option contracts for the purchase of property of a size and in a location as is reasonably related to the possible future design and alignment of such

transportation facility, to expend funds for option fee payments, surveys, title examinations, appraisals and other expenses reasonably necessary to purchase the options, and to exercise the options and expend funds for acquisition of the properties.

#### **ITEM 10. TOLL PROJECTS**

**a. Chambers County** – Designate the mainlanes of SH 99 (Grand Parkway) from I-10 to Fisher Road as a toll project on the state highway system, and as a controlled-access facility for the purpose of development, maintenance and operation (MO)

Commissioner Holmes made a motion, seconded by Commissioner Houghton and the commission approved the following minute order presented by Texas Turnpike Authority Division Director Phillip Russell:

111167  
TTA

In CHAMBERS COUNTY, NEW LOCATION, STATE HIGHWAY 99 from I-10 to Fisher Road, is currently planned as a four-lane divided highway to be on the state highway system. The existing section will consist of a proposed controlled-access facility with two tolled mainlanes and two-lane, non-tolled, discontinuous one-way frontage roads in each direction.

Transportation Code, §228.051 provides that the Texas Transportation Commission (commission), by order, may designate one or more lanes of a segment of the state highway system as a toll project or system.

Transportation Code, §203.003 authorizes the commission to lay out, construct, maintain, and operate a designated state highway, with control of access as necessary to facilitate the flow of traffic and promote the public safety and welfare.

IT IS THEREFORE ORDERED by the commission that the tolled mainlanes on SH 99 from I-10 to Fisher Road are designated as a toll project on the state highway system.

IT IS FURTHER ORDERED that SH 99 from I-10 to Fisher Road is designated as a controlled access facility for the purpose of development, maintenance and operation.

**b. Harris and Montgomery Counties** – Designate the mainlanes on Segment 2 of SH 249, from north of Spring Cypress Road to FM 1774 in Pinehurst, including the mainlanes of the Tomball Bypass, as a toll project on the state highway system, and as a controlled-access facility for the purpose of development, maintenance and operation (MO)

Commissioner Holmes made a motion, seconded by Commissioner Houghton and the commission approved the following minute order presented by Texas Turnpike Authority Division Director Phillip Russell:

111168  
TTA

In HARRIS and MONTGOMERY COUNTIES, STATE HIGHWAY 249, Segment 1, from Beltway 8 to north of Spring Cypress Road, a distance of approximately

eight miles is currently a six- to eight-lane, non-tolled expressway section with two, 3-lane continuous frontage roads. SH 249, Segment 2, from north of Spring Cypress Road to FM 1774 in Pinehurst, a distance of approximately 11 miles, is currently a two- or three-lane, discontinuous, one-way frontage-road section. Currently under construction is the Tomball Bypass, with two, three-lane frontage roads which is a section of Segment 2 of SH 249 from Willow Creek to Brown Road, a distance of approximately three miles.

The proposed section in Segment 2 will consist of a controlled-access facility with six-tolled mainlanes including the mainlanes of the Tomball Bypass. The six tolled mainlanes will be constructed in the wide median between the existing frontage roads and the frontage roads under construction.

Transportation Code, §228.051 provides that the Texas Transportation Commission (commission) by order may designate one or more lanes of a segment of the state highway system as a toll project or system.

Transportation Code, §203.003 authorizes the commission to layout, construct, maintain, and operate a designated state highway, with control of access as necessary to facilitate the flow of traffic and promote the public safety and welfare.

IT IS THEREFORE ORDERED by the commission that the mainlanes on Segment 2 of SH 249 from north of Spring Cypress Road to FM 1774 in Pinehurst including the mainlanes of the Tomball Bypass, a distance of approximately 11 miles, are designated as a toll project on the state highway system.

IT IS FURTHER ORDERED that SH 249 from north of Spring Cypress Road to FM 1774 in Pinehurst, including the mainlanes of the Tomball Bypass, is designated as a controlled-access facility for the purpose of development, maintenance and operation.

**c. Tarrant and Dallas Counties – Authorize issuance of a Request for Proposals to develop, design, construct, finance, maintain, and operate I-820 and SH 183 from I-35W to SH 161, along I-820 to Randol Mill Road, and along I-35W from I-30 to SH 170 in Tarrant and Dallas counties (North Tarrant Express), and other facilities to the extent necessary for connectivity, mobility, safety, and financing, and authorize the payment of a stipulated amount as payment for the work product of unsuccessful proposers (MO)**

Commissioner Holmes made a motion, seconded by Commissioner Houghton and the commission approved the following minute order presented by Texas Turnpike Authority Division Director Phillip Russell:

111169  
TTA

Transportation Code, Chapter 223, Subchapter E, prescribes the process by which the Texas Department of Transportation (department) may enter into a comprehensive development agreement (CDA) with a private entity that provides for the design, development, financing, construction, maintenance, repair, operation, extension, or expansion of a toll project on the state highway system.

On March 30, 2006, by Minute Order 110468, the Texas Transportation Commission (commission) authorized and directed the department to issue a request for qualifications (RFQ) to develop, design, construct, finance, maintain, and operate, as



necessary to achieve the optimal traffic solution, tolled managed lanes along I-820 and SH 183 from I-35W to SH 161, along I-820 to Randol Mill Road, and along I-35W from I-30 to SH 170 in Tarrant and Dallas counties, as well as other facilities to the extent necessary for connectivity, mobility, safety, and financing (North Tarrant Express Project).

On December 8, 2006 the department issued a RFQ for the North Tarrant Express Project. The department determined that four proposing teams submitting qualification submittals in response to the RFQ were qualified to be on the short list of teams that will be requested to submit detailed proposals.

Transportation Code, §223.203(m) allows the department to pay an unsuccessful private entity that submits a responsive proposal in response to an RFP a stipulated amount in exchange for the work product contained in that proposal. The stipulated amount must be stated in the request for proposals and may not exceed the value of any work product contained in the proposal that can, as determined by the department, be used by the department in the performance of its functions. In accordance with Title 43, Texas Administrative Code, §27.4, in determining whether to approve a payment, the commission shall consider: 1) the effect of a payment on the department's ability to attract meaningful proposals and to generate competition; 2) the work product expected to be included in the proposal and the anticipated value of that work product; and 3) the costs anticipated to be incurred by a private entity in preparing a proposal.

In the RFP, the department will request detailed engineering, design, financial, and other information from the short-listed proposers that is anticipated to be of value to the department and able to be used by the department in the performance of its functions. Payment for this work product would allow the department to use the work product for the benefit of the North Tarrant Express Project or for other department projects without further payment to the applicable proposers. Payment for the work product of proposers will defray a portion of the costs to be incurred by the short-listed proposers in preparing a proposal, and is thereby anticipated to increase the quality of detailed proposals submitted for the North Tarrant Express Project and to increase competition for the North Tarrant Express Project.

IT IS THEREFORE ORDERED that the department is authorized and directed to issue an RFP to develop, design, construct, finance, maintain, and operate, as necessary to achieve the optimal traffic solution, along I-820 and SH 183 from I-35W to SH 161, along I-820 to Randol Mill Road, and along I-35W from I-30 to SH 170 in Tarrant and Dallas counties, as well as other facilities to the extent necessary for connectivity, mobility, safety, and financing.

IT IS FURTHER ORDERED that the department is authorized to pay to each proposer that submits a responsive, but unsuccessful proposal for the North Tarrant Express Project an amount based upon the value of the work product provided in the proposal that can, as determined by the department, be used by the department in the performance of its functions, up to a maximum amount per proposer of \$750,000.

IT IS FURTHER ORDERED that payment for work product may only be paid if the work product submitted meets the minimum criteria and other conditions for payment identified by the department in the North Tarrant Express Project procurement documents.

**ITEM 11. FINANCE**

a. Accept the audited financial statements of the Texas Mobility Fund as required by the governing master resolution (MO)

Commissioner Houghton made a motion, seconded by Commissioner Holmes and the commission approved the following minute order presented by Finance Division Deputy Director John Muñoz:

111170  
FIN

Article III, Section 49-k of the Texas Constitution created the Texas Mobility Fund (Mobility Fund) within the treasury of the State of Texas (state) to be administered by the Texas Transportation Commission (commission) as a revolving fund to (i) provide a method of financing the construction, reconstruction, acquisition, and expansion of state highways, including costs of any necessary design and costs of acquisition of rights of way, as determined by the commission in accordance with standards and procedures established by law and (ii) provide participation by the state in the payment of a portion of the costs of constructing and providing publicly-owned toll roads and other public transportation projects in accordance with the procedures, standards, and limitations established by law.

Transportation Code, Chapter 201 and other applicable law authorizes the commission to issue obligations secured by and payable from a pledge of and lien on all or part of the moneys in the Mobility Fund in the name and on behalf of the state and the Texas Department of Transportation (department) in multiple series and issues from time to time for one or more of the following purposes: (i) to pay all or part of the costs of constructing, reconstructing, acquiring, and expanding state highways, including any necessary design and acquisition of rights of way, in the manner and locations determined by the commission that, according to conclusive findings of the commission, have an expected useful life, without material repair, of not less than 10 years; (ii) to provide participation by the state in the payment of part of the costs of constructing and providing publicly owned toll roads and other public transportation projects that are determined by the commission to be in the best interests of the state in its major goal of improving the mobility of the residents of the state; (iii) to create debt service reserve accounts; (iv) to pay interest on obligations for a period of not longer than two years; (v) to refund or cancel outstanding obligations; and (vi) to pay the commission's costs of issuance. The commission also authorized the execution of a Master Resolution and two supplemental Master Resolutions (Resolution) to secure general obligation bonds for the Mobility Fund Revenue Financing Program. The Resolution dated May 4, 2005 prescribes the terms, provisions and covenants related to the issuance of general obligation bonds.

Under Section 5 (j) of the Resolution, the commission covenants to prepare, or cause to be prepared, no more than 120 days after the last day of each fiscal year, a financial report of the Mobility Fund. The financial report is required to be prepared in accordance with generally accepted accounting principles and certified by a certified public accountant. Audited financial statements, contained in the attached Exhibit A, have been prepared for the year ended August 31, 2007.

IT IS THEREFORE ORDERED by the commission that the audited financial statements of the Mobility Fund, attached as Exhibit A, are accepted.

Note: Exhibit A on file with minute order clerk.

**b. Travis and Williamson Counties – Accept the audited financial statements of the Central Texas Turnpike System, as required by the indenture of trust governing the obligations issued for the 2002 Project of the system (MO)**

Commissioner Houghton made a motion, seconded by Commissioner Holmes and the commission approved the following minute order presented by Finance Division Deputy Director John Muñoz:

111171  
FIN

Transportation Code, Chapter 228 and other applicable law authorizes the Texas Transportation Commission (commission) to issue toll project revenue bonds, bond anticipation notes, and other obligations to finance toll projects on the state highway system, and to enter into trust agreements and indentures of trust governing matters relating to the issuance of such obligations.

The commission issued toll project revenue bonds and other obligations to finance a portion of the costs of the Central Texas Turnpike System (system), a toll project composed initially of SH 130 (Segments 1 through 4), SH 45 North, and Loop 1 project elements (2002 Project). The commission also authorized the execution of an indenture of trust and four supplemental indentures to secure revenue bonds and other obligations issued for the 2002 Project. The Indenture of Trust dated July 15, 2002 (indenture) prescribes the terms, provisions and covenants related to the issuance of toll project revenue bonds and obligations to finance a portion of the costs of the 2002 Project.

Under Section 712 of the indenture, the commission covenants to prepare, or cause to be prepared, no more than 120 days after the last day of each fiscal year, a financial report of the results of operations of the system for such fiscal year. The financial report is required to be certified by a certified public accountant, and contain an audited balance sheet, an audited statement of operations, and an audited statement of cash flows for such fiscal year. Audited financial statements, contained in the attached Exhibit A, have been prepared for the fiscal years ended August 31, 2007.

IT IS THEREFORE ORDERED by the commission that the audited financial statements of the system, attached as Exhibit A, is accepted.

Note: Exhibit A on file with minute order clerk.

**ITEM 12. STATE INFRASTRUCTURE BANK**

**a. Grayson County – City of Pottsboro – Consider granting final approval of an application from the City of Pottsboro to borrow \$1 million from the State Infrastructure Bank to pay for utility relocation due to expansion of SH 289 in the city of Pottsboro (MO)**

Commissioner Houghton made a motion, seconded by Commissioner Holmes and the commission approved the following minute order presented by Finance Division Deputy Director John Muñoz:

111172  
FIN

On November 15, 2007, by Minute Order Number 111134, the Texas Transportation Commission (commission) granted preliminary approval of an application for financial assistance from the City of Pottsboro (city) to borrow \$1 million from the State Infrastructure Bank (SIB) to pay for utility relocation costs along FM 996 and the proposed SH 289 made necessary by the extension of SH 289 in the city of Pottsboro.

Pursuant to the commission's preliminary approval, the executive director implemented and completed negotiations and other actions authorized and required by commission rules. The executive director affirms that the necessary social, economic, and environmental impact study has been completed, and that the Texas Department of Transportation (department) has approved that study. The executive director recommends that the commission grant final approval of the SIB application for financial assistance.

The commission determines that providing financial assistance will protect the public safety and prudently provide for the protection of public funds, while furthering the purposes of the SIB; and that the project will provide for all reasonable and feasible measures to avoid, minimize, or mitigate for adverse environmental impacts.

IT IS THEREFORE ORDERED that the financial assistance application submitted by the City of Pottsboro to borrow \$1 million from the State Infrastructure Bank is granted final approval. The executive director is directed and authorized to enter into the financial assistance agreement as negotiated with the city. The loan will be paid over a period of no more than 11 years at 4.29 percent interest per annum.

**b. Harris County – City of Baytown – Consider granting final approval of an application from the City of Baytown to borrow \$2 million from the State Infrastructure Bank to pay for construction of a direct connector from Spur 330 to SH 146 in the city of Baytown (MO)**

Commissioner Houghton made a motion, seconded by Commissioner Underwood and the commission approved the following minute order presented by Finance Division Deputy Director John Muñoz:

111173  
FIN

On November 15, 2007, by Minute Order Number 111135, the Texas Transportation Commission (commission) granted preliminary approval of an application

for financial assistance from the City of Baytown (city) to borrow \$2 million from the State Infrastructure Bank (SIB) to pay for construction of a direct connector braided ramp from Spur 330 to SH 146 in Baytown.

Pursuant to the commission's preliminary approval, the executive director implemented and completed negotiations and other actions authorized and required by commission rules. The executive director affirms that the necessary social, economic, and environmental impact study has been completed, and that the Texas Department of Transportation (department) has approved that study. The executive director recommends that the commission grant final approval of the SIB application for financial assistance.

The commission determines that providing financial assistance will protect the public safety and prudently provide for the protection of public funds, while furthering the purposes of the SIB; and that the project will provide for all reasonable and feasible measures to avoid, minimize, or mitigate for adverse environmental impacts.

IT IS THEREFORE ORDERED that the financial assistance application submitted by the City of Baytown to borrow \$2 million from the State Infrastructure Bank is granted final approval. The executive director is directed and authorized to enter into the financial assistance agreement as negotiated with the city. The loan will be paid over a period of no more than 8 years at 4.07 percent interest per annum.

c. Hunt County – Caddo Basin Special Utility District – Consider granting final approval of an application from the Caddo Basin SUD to borrow \$2,119,002 million from the State Infrastructure Bank to pay for utility relocation costs along US 380 from the city of Greenville westward to the Hunt/Collin county line (MO)

Commissioner Houghton made a motion, seconded by Commissioner Andrade and the commission approved the following minute order presented by Finance Division Deputy Director John Muñoz:

111174  
FIN

On November 15, 2007, by Minute Order Number 111136, the Texas Transportation Commission (commission) granted preliminary approval of an application for financial assistance from the Caddo Basin Special Utility District (SUD) to borrow \$2,119,002 from the State Infrastructure Bank (SIB) to pay for utility relocation costs made necessary by the expansion of US 380 in Hunt County from the city of Greenville west to the Hunt/Collin county line.

Pursuant to the commission's preliminary approval, the executive director implemented and completed negotiations and other actions authorized and required by commission rules. The executive director affirms that the necessary social, economic, and environmental impact study has been completed, and that the Texas Department of Transportation (department) has approved that study. The executive director recommends that the commission grant final approval of the SIB application for financial assistance.

The commission determines that providing financial assistance will protect the public safety and prudently provide for the protection of public funds, while furthering the purposes of the SIB; and that the project will provide for all reasonable and feasible measures to avoid, minimize, or mitigate for adverse environmental impacts.

IT IS THEREFORE ORDERED that the financial assistance application submitted by the Caddo Basin Special Utility District to borrow \$2,119,002 from the State Infrastructure Bank is granted final approval. The executive director is directed and authorized to enter into the financial assistance agreement as negotiated with the SUD. The loan will be paid over a period of no more than 2 years at 4.13 percent interest per annum.

**ITEM 13. Promulgation of Administrative Rules** Under Title 43, Texas Administrative Code, and the Administrative Procedure Act, Government Code, Chapter 2001:

**a. Proposed Adoption (to be published in the Texas Register for public comment)**

**(1) Chapter 1 – Management (MO)**

**Amendments to §1.82, Statutory Advisory Committee Operations and Procedures (Advisory Committees)**

Commissioner Underwood made a motion, seconded by Commissioner Holmes, and the commission approved the following minute order presented by General Counsel Bob Jackson:

111175  
OGC

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §1.82 relating to statutory advisory committee operations and procedures to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the proposed amendments, attached to this minute order as Exhibits A and B, are incorporated by reference as though set forth at length verbatim in this minute order.

IT IS THEREFORE ORDERED by the commission that the amendments to §1.82 are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

The executive director is directed to take the necessary steps to implement the actions as ordered in this minute order, pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

Note: Exhibits A and B on file with minute order clerk.

**b. Final Adoption**

**(3) Chapter 8 – Motor Vehicle Distribution (MO)**

**Amendments to §8.132, Definitions, §8.133, General Distinguishing Number, §8.139, Metal Dealer License Plates and Temporary Cardboard Tags, §8.144, Record of Sales and Inventory, and New §8.149, Independent Mobility Motor Vehicle Dealers (General Distinguishing Numbers)**

Commissioner Houghton made a motion, seconded by Commissioner Andrade, and the commission approved the following minute order presented by Motor Vehicle Division Director Brett Bray:

111176  
MVD

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §8.132, definitions, §8.133, general distinguishing number, §8.139, metal dealer license plates and temporary cardboard tags, §8.144, record of sales and inventory, and new §8.149, independent mobility motor vehicle dealers, all relating to general distinguishing numbers, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted amendments and new section, attached to this minute order as Exhibits A and B, are incorporated by reference as though set forth at length verbatim in this minute order.

IT IS THEREFORE ORDERED by the commission that the amendments to §8.132, §8.133, §8.139, §8.144, and new §8.149 are adopted and are authorized for filing with the Office of the Secretary of State.

The executive director is directed to take the necessary steps to implement the actions as ordered in this minute order, pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

Note: Exhibits A and B on file with minute order clerk.

**a. Proposed Adoption (continued)**

**(2) Chapter 8 – Motor Vehicle Distribution (MO)**

Repeal of §8.138, Temporary Cardboard Tags, §8.139, Metal Dealer License Plates and Temporary Cardboard Tags, §8.140, Established and Permanent Place of Business, §8.146, Metal Converter's License Plates and Temporary Cardboard Tags, and New §8.138, Use of Metal Dealer License Plates, §8.139, Metal Dealer Plate Allocation, §8.140, Established and Permanent Place of Business, §8.146, Metal Converter's License Plates, §8.150, Authorization to Issue Temporary Tags, §8.151, Temporary Tags, General Use Requirements, and Prohibitions, §8.152, Obtaining Numbers for Issuance of Temporary Tags, §8.153, Specifications for All Temporary Tags, §8.154, Dealer Temporary Tags, §8.155, Buyer's Temporary Tags, §8.156, Buyer's Temporary Tag Receipt and Notice to Buyer, §8.157, Advance Numbers, Internet-down Buyer's Temporary Tags, §8.158, Advance Numbers, Emergency Buyer's Temporary Tags, §8.159, General Requirements and Allocation of Internet-down and Emergency Buyer's Tag Numbers, §8.160, Converter's Temporary Tags (General Distinguishing Numbers)

Commissioner Andrade made a motion, seconded by Commissioner Houghton, and the commission approved the following minute order presented by Motor Vehicle Division Director Brett Bray:

111177  
MVD

The Texas Transportation Commission (commission) finds it necessary to propose the repeal of §8.138, temporary cardboard tags, §8.139, metal dealer license plates and temporary cardboard tags, §8.140, established and permanent place of

business, and §8.146, metal converter's license plates and temporary cardboard tags, and new §8.138, use of metal dealer license plates, §8.139, metal dealer plate allocation, §8.140, established and permanent place of business, §8.146, metal converter's license plates, §8.150, authorization to issue temporary tags, §8.151, temporary tags, general use requirements and prohibitions, §8.152, obtaining numbers for issuance of temporary tags, §8.153, specifications for all temporary tags, §8.154, dealer temporary tags, §8.155, buyer's temporary tags, §8.156, buyer's temporary tag receipt and notice to buyer, §8.157, advance numbers, internet-down buyer's temporary tags, §8.158, advance numbers, emergency buyer's temporary tags, §8.159, general requirements and allocation of internet-down and emergency buyer's tag numbers, §8.160, converter's temporary tags, all concerning general distinguishing numbers, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the proposed repeals and new sections, attached to this minute order as Exhibits A - C, are incorporated by reference as though set forth at length verbatim in this minute order.

IT IS THEREFORE ORDERED by the commission that the repeal of §8.138, §8.139, §8.140, §8.146, and new §8.138, §8.139, §8.140, §8.146, §8.150, §8.151, §8.152, §8.153, §8.154, §8.155, §8.156, §8.157, §8.158, §8.159 and §8.160 are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

The executive director is directed to take the necessary steps to implement the actions as ordered in this minute order, pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

Note: Exhibits A through C on file with minute order clerk.

Note: The commission received comments from Steve Holt, GCS Systems, Inc.; and Glenn Hagood, president, GCS Systems, Inc.

### **(3) Chapter 18 – Motor Carriers (MO)**

Amendments to §18.1, Purpose, and §18.2, Definitions (General Provisions), §18.10, Purpose, §18.11, Motor Carrier Registration, §18.13, Application for Motor Carrier Registration, §18.14, Expiration and Renewal of Commercial Motor Vehicle Registration, §18.16, Insurance Requirements, New §18.18, Unified Carrier Registration System, and Amendments to §18.19, Short-term Lease and Substitute Vehicles, (Motor Carrier Registration), §18.31, Investigations and Inspections of Motor Carrier Records, and §18.32, Motor Carrier Records (Records And Inspections), Amendments to §18.70, Purpose, §18.71, Administrative Penalties, §18.72, Suspension and Revocation, and New §18.73, Administrative Proceedings, §18.74, Settlement Agreements, §18.75, Implications for Nonpayment of Penalties, and §18.76, Registration Suspension Ordered under Family Code (Enforcement)

Commissioner Houghton made a motion, seconded by Commissioner Underwood, and the commission approved the following minute order presented by Motor Carrier Division Director Carol Davis:



111178  
MCD

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §18.1, purpose, §18.2, definitions, §18.10, purpose, §18.11, motor carrier registration, §18.13, application for motor carrier registration, §18.14, expiration and renewal of commercial motor vehicle registration, §18.16, insurance requirements, new §18.18, unified carrier registration system, and amendments to §18.19, short-term lease and substitute vehicles, §18.31, investigations and inspections of motor carrier records, §18.32, motor carrier records, §18.70, purpose, §18.71, administrative penalties, §18.72, suspension and revocation, and new §18.73, administrative proceedings, §18.74, settlement agreements, §18.75, implications for nonpayment of penalties, and §18.76, registration suspension ordered under family code, all relating to motor carriers, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the proposed amendments and new sections, attached to this minute order as Exhibits A - E, are incorporated by reference as though set forth at length verbatim in this minute order.

IT IS THEREFORE ORDERED by the commission that the amendments to §18.1, §18.2, §18.10, §18.11, §18.13, §18.14, §18.16, new §18.18, and amendments to §18.19, §18.31, §18.32, §18.70, §18.71, §18.72, and new §18.73, §18.74, §18.75 and §18.76 are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

The executive director is directed to take the necessary steps to implement the actions as ordered in this minute order, pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

Note: Exhibits A through E on file with minute order clerk.

**b. Final Adoption**

**(1) Chapter 3 – Public Information and Chapter 25 – Traffic Operations (MO)**

Amendments to §3.13, Cost of Copies of Official Records (Access to Official Records) and New §25.971, Purpose, §25.972, Definitions, §25.973, Medical Examiner's Report, and §25.974, Officer Accident Report Modifications (New Subchapter O, Crash Records Information System)

Commissioner Houghton made a motion, seconded by Commissioner Underwood, and the commission approved the following minute order presented by Traffic Operations Division Deputy Director Carol Rawson:

111179  
TRF

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §3.13, cost of copies of official records, and new §25.971, purpose, §25.972, definitions, §25.973, medical examiner's report, and §25.974, officer accident report modifications, all relating to the crash records information system, to be codified under Title 43, Texas Administrative Code, Part 1.

The preambles and the adopted amendments and new sections, attached to this minute order as Exhibits A - D, are incorporated by reference as though set forth at length verbatim in this minute order.

IT IS THEREFORE ORDERED by the commission that the amendments to §3.13 and new §25.971, §25.972, §25.973, and §25.974 are adopted and are authorized for filing with the Office of the Secretary of State.

The executive director is directed to take the necessary steps to implement the actions as ordered in this minute order, pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

Note: Exhibits A through D on file with minute order clerk.

**b. Final Adoption (continued)**

**(2) Chapter 5 – Finance (MO)**

Amendments to §5.53, Proposal, §5.54, Commission Approval to Negotiate, §5.55, Proposals from Private Entities, §5.56, Final Approval, and §5.58, Project Development by Public or Private Entity (Pass-Through Fares and Tolls)

Commissioner Underwood made a motion, seconded by Commissioner Houghton, and the commission approved the following minute order presented by Design Division Director of Plan Development Section Elizabeth Hilton:

111180  
DES

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §5.53, proposal, §5.54, commission approval to negotiate, §5.55, proposals from private entities, §5.56, final approval, and §5.58, project development by public or private entity, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted amendments, attached to this minute order as Exhibits A and B, are incorporated by reference as though set forth at length verbatim in this minute order.

IT IS THEREFORE ORDERED by the commission that the amendments to §5.53, §5.54, §5.55, §5.56, and §5.58 are adopted and are authorized for filing with the Office of the Secretary of State.

The executive director is directed to take the necessary steps to implement the actions as ordered in this minute order, pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

Note: Exhibits A and B on file with minute order clerk.

**(4) Chapter 15 – Transportation Planning and Programming and Chapter 24 – Trans-Texas Corridor (MO)**

Amendments to §15.2, Definitions, and New §15.9, Corridor Advisory Committees (Transportation Planning) and New §24.13, Advisory Committees (Development of Facilities)

Commissioner Houghton made a motion, seconded by Commissioner Underwood, and the commission approved the following minute order presented by Texas Turnpike Authority Division Director Phillip Russell:

111181  
TTA

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §15.2, relating to definitions, new §15.9, relating to corridor advisory committees, and new §24.13, relating to corridor planning and development, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted amendments and new sections, attached to this minute order as Exhibits A - D, are incorporated by reference as though set forth at length verbatim in this minute order.

IT IS THEREFORE ORDERED by the commission that the amendments to §15.2 and new §15.9 and §24.13 are adopted and are authorized for filing with the Office of the Secretary of State.

The executive director is directed to take the necessary steps to implement the actions as ordered in this minute order, pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

Note: Exhibits A through D on file with minute order clerk.

**(5) Chapter 17 – Vehicle Titles and Registration (MO)**

**Amendments to §17.3, Motor Vehicle Certificates of Title, and New §17.8, Landowner's Lien (Motor Vehicle Certificates of Title), and Amendments to §17.23, Temporary Registration Permits (Motor Vehicle Registration)**

Commissioner Houghton made a motion, seconded by Commissioner Underwood, and the commission approved the following minute order presented by Vehicle Titles and Registration Division Director Rebecca Davio:

111182  
VTR

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §17.3, motor vehicle certificates of title, new §17.8, landowner's lien, and amendments to §17.23, temporary registration permits, all relating to motor vehicle registration, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted amendments and new section, attached to this minute order as Exhibits A - C, are incorporated by reference as though set forth at length verbatim in this minute order.

IT IS THEREFORE ORDERED by the commission that the amendments to §17.3, and new §17.8, and amendments to §17.23 are adopted and are authorized for filing with the Office of the Secretary of State.

The executive director is directed to take the necessary steps to implement the actions as ordered in this minute order, pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

Note: Exhibits A through C on file with minute order clerk.

**c. Rule Review**

**In accordance with Government Code, §2001.039, Readoption of 43 Texas Administrative Code, Chapter 17, Vehicle Titles and Registration; Chapter 18, Motor Carriers; and Chapter 28, Oversize and Overweight Vehicles and Loads (MO)**

Commissioner Houghton made a motion, seconded by Commissioner Underwood, and the commission approved the following minute order presented by General Counsel Bob Jackson:

111183  
OGC

Government Code, §2001.039 requires state agencies to readopt their rules every four years and, prior to readopting, to consider whether the reason for adopting each rule continues to exist.

During November and December 2007, the Texas Department of Transportation reviewed Title 43 Texas Administrative Code, Part 1, Chapter 17, Vehicle Titles and Registration; Chapter 18, Motor Carriers; and Chapter 28, Oversize and Overweight Vehicles and Loads. The Notice of Intent to review was published in the *Texas Register* on November 2, 2007 (32 TexReg 7935).

No comments were received regarding this rule review.

The Texas Transportation Commission (commission) finds that the reasons for adopting these rules continue to exist.

Independent of the rule review, the commission contemporaneously adopted amendments to §17.3, Motor Vehicle Certificates of Title, and 17.23, Temporary Registration Permits.

IT IS THEREFORE ORDERED by the commission that the reviewed rules, as so amended, are readopted and that the executive director provide for filing with the Office of the Secretary of State, Texas Register Division, a notice readopting these rules.

#### **ITEM 14. CONTRACTS**

##### **a. Award or Reject Highway Improvement Contracts**

##### **(1) Highway Maintenance and Department Building Construction (see attached itemized list) (MO)**

Commissioner Houghton made a motion, seconded by Commissioner Andrade and the commission approved the following minute order as recommended by staff and presented by Construction Division Director Thomas Bohuslav:

111184  
CST

Pursuant to Transportation Code, Chapter 223, Subchapter A, and Title 43, Texas Administrative Code, Chapter 9, Subchapter B, the Texas Department of Transportation (department) solicited and received sealed competitive bid proposals for maintenance of the State Highway System, which were publicly opened and read on December 4 and 5, 2007.

Pursuant to cited code provisions highway maintenance contract bids on a project may be accepted or rejected, but if accepted must be awarded to the lowest bidder.

An award is conditional in the event it is subject to Federal Highway Administration concurrence, third party funding or concurrence, and other conditions listed in the contract.

The department recommends that the Texas Transportation Commission (commission) respectively award to the lowest bidder or reject, as indicated, those highway maintenance and department building construction contracts, with an engineer's estimated cost of \$300,000 or more, identified on attached Exhibit A to this order.

IT IS THEREFORE ORDERED by the commission that the contracts described in Exhibit A be and are hereby respectively awarded to the lowest bidder or rejected as indicated therein.

If a contractual requirement of award is not satisfied within the prescribed time limit, including any extension of time allowed by the executive director or the director's designee, by reason of the action or inaction of the successful low bidder on any contract, including, but not limited to, disadvantaged business/historically underutilized business participation, the contract is automatically in default and the executive director is authorized and directed to retain and deposit the related contract proposal guaranty to the credit of the State Highway Fund and to readvertise that project for competitive bids at the earliest practical subsequent date.

If a condition of award is not satisfied, including, but not limited to, reason of nonconcurrence of the Federal Highway Administration, the failure of a third party to fund or concur, or failure to meet other conditions in the contract, the respective award is voided and the department will return the bid guaranty.

Note: Exhibit A on file with minute order clerk.

**(2) Highway and Transportation Enhancement Building Construction (see attached itemized list) (MO)**

Commissioner Houghton made a motion, seconded by Commissioner Underwood and the commission approved the following minute order as recommended by staff and presented by Construction Division Director Thomas Bohuslav:

111185  
CST

Pursuant to Transportation Code, Chapter 223, Subchapter A, and Title 43, Texas Administrative Code, Chapter 9, Subchapter B, the Texas Department of Transportation (department) solicited and received sealed competitive bid proposals for improvement of the State Highway System, which were publicly opened and read on December 4 and 5, 2007.

Pursuant to cited code provisions highway improvement contract bids on a project may be accepted or rejected, but if accepted must be awarded to the lowest bidder.

An award is conditional in the event it is subject to Federal Highway Administration concurrence, third party funding or concurrence, and other conditions listed in the contract.

The department recommends that the commission respectively award to the lowest bidder or reject, as indicated, those highway and transportation enhancement building construction contracts identified on attached Exhibit A to this order.

IT IS THEREFORE ORDERED by the commission that the contracts described in Exhibit A be and are hereby respectively awarded to the lowest bidder or rejected as indicated therein.

If a contractual requirement of award is not satisfied within the prescribed time limit, including any extension of time allowed by the executive director or the director's designee, by reason of the action or inaction of the successful low bidder on any contract, including, but not limited to, disadvantaged business/historically underutilized business participation, the contract is automatically in default and the executive director is authorized and directed to retain and deposit the related contract proposal guaranty to the credit of the State Highway Fund and to readvertise that project for competitive bids at the earliest practical subsequent date.

If a condition of award is not satisfied, including, but not limited to, reason of nonconcurrence of the Federal Highway Administration, the failure of a third party to fund or concur, or failure to meet other conditions in the contract, the respective award is voided and the department will return the bid guaranty.

Note: Exhibit A on file with minute order clerk.

### **ITEM 15. ROUTINE MINUTE ORDERS**

Commissioner Houghton made a motion, seconded by Commissioner Andrade, and the commission approved the following minute orders presented by Executive Director Amadeo Saenz.

#### **a. Donations to the Department**

**(1) Brazos County – Consider a donation from Keep Brazos Beautiful for approximately \$14,000 worth of wildflower seeds to be planted on state right of way (MO)**

111186  
OGC

This minute order considers a donation to the Texas Department of Transportation (department) from Keep Brazos Beautiful (KBB) of wildflower seeds. The wildflower seeds, with an approximate value of \$14,000, will be used to plant on state right of way as part of the Annual *Blanket the Brazos* Wildflower Seed Campaign, which supports department litter prevention, highway maintenance, and beautification programs.

This donation has been examined, and the department recommends issuance of this minute order on the ground that it is in the best interest and welfare of the traveling public.

Transportation Code, §201.206, authorizes the department to accept a donation in any form, including realty, personalty, money, materials, and services, for the purpose of carrying out its functions and duties. Government Code, Chapter 575, requires the governing board of a state agency to acknowledge the acceptance of a donation valued at \$500 or more by majority vote at an open meeting, not later than the 60th day after the date the donation is accepted. It also prohibits a state agency from accepting a donation from a person who is a party to a contested case before the agency until the 30th day after the date the decision in the case becomes final.

The Texas Transportation Commission (commission) has adopted 43 TAC §§1.500-1.506, which relate to the department's acceptance of donations. Section 1.503 prohibits acceptance of a gift or donation when the donor is subject to department regulation or oversight or when the donor is interested in or likely to become interested in any contract, purchase, payment, or claim with or against the department, except as provided by that section. It also provides that the commission may approve the acceptance of a donation, notwithstanding the foregoing proscriptions in the rules, if it determines that acceptance would provide a significant public benefit and would not influence or reasonably appear to influence the department in the performance of its duties.

The commission finds that the donation will further the department's responsibilities and that the donor is not a party to a contested case before the department and has not been a party to a contested case before the department during the last 30 days. The commission also finds that the donor is not subject to department regulation or oversight and is not interested in or likely to become interested in any contract, purchase, payment, or claim with or against the department.

IT IS THEREFORE ORDERED by the commission that the estimated donation of \$14,000 worth of wildflower seeds by KBB is accepted. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acceptance of the donation.

**(2) Texas Turnpike Authority Division – Acknowledge a donation from the American Association of Port Authorities (AAPA) for a department employee's travel expenses to speak and participate at the AAPA Port Facilities Engineering Conference. The meeting was held in San Diego, California on November 7-8, 2007 (MO)**

111187  
OGC

This minute order acknowledges a donation of \$764.13 from the American Association of Port Authorities (AAPA) for a Texas Department of Transportation (department) employee's travel expenses to attend and give a presentation at the AAPA Port Facilities Engineering Conference that was held in San Diego, California on November 7-8, 2007.

The department has determined that acceptance of the donation is in the best interest and welfare of the traveling public and will provide a significant public benefit.

Transportation Code, §201.206, authorizes the department to accept a donation in any form, including realty, personalty, money, materials, and services, for the purpose of carrying out its functions and duties. Government Code, Chapter 575, requires the governing board of a state agency to acknowledge the acceptance of a donation valued at \$500 or more by majority vote at an open meeting, not later than the 60th day after the date the donation is accepted. It also prohibits a state agency from accepting a donation from a person who is a party to a contested case before the agency until the 30th day after the date the decision in the case becomes final.

The Texas Transportation Commission (commission) has adopted 43 TAC §§1.500-1.506, which relate to the department's acceptance of donations. Section 1.503 prohibits acceptance of a gift or donation when the donor is subject to department regulation or oversight or when the donor is interested in or likely to become interested in any contract, purchase, payment, or claim with or against the department, except as provided by that section. It also provides that the commission may approve the acceptance of a donation, notwithstanding the foregoing proscriptions in the rules, if it determines that acceptance would provide a significant public benefit and would not influence or reasonably appear to influence the department in the performance of its duties.

The commission finds that the donation will further the department's responsibilities and that the donor is not a party to a contested case before the department and has not been a party to a contested case before the department during the last 30 days.

The commission also finds that the donor is not subject to department regulation or oversight and is not interested in or likely to become interested in any contract, purchase, payment, or claim with or against the department. Members of the donor's organization may be interested in a contract, but, nonetheless, the commission finds that this donation will not influence or reasonably appear to influence the department in the performance of its duties.

IT IS THEREFORE ORDERED by the commission that the donation of an estimated \$764.13 by the AAPA is acknowledged. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acknowledgment of the donation.

**b. Eminent Domain Proceedings**

**Various Counties – noncontrolled and controlled access highways (see attached itemized list) (MO)**

111188  
ROW

The Texas Transportation Commission (commission) of the State of Texas (state) has found in order to promote the public safety, to facilitate the safety and movement of traffic and to preserve the financial investment of the public in its highways, public necessity requires the laying out, opening, constructing, reconstructing, maintaining, and operating of the following highways in the state as a part of the State Highway System (highway system).

The commission has found and determined that each of the following listed parcels of land, same being more particularly described in the exhibits attached hereto, and such additional lesser estates or property interests described thereon, are necessary or convenient for use for such purposes and it is necessary to acquire fee simple title to said land, as provided by Texas Transportation Code, Subchapter D, Chapter 203, Sections 203.051, 203.052, and 203.054, as a part of the highway system to be constructed, reconstructed, maintained and operated thereon.



The commission has found in order to promote the public safety, to facilitate the safety and movement of traffic, to preserve the financial investment of the public in its highways and reconstructing, maintaining, and operating of Controlled Access Highways in the state as a part of the highway system at such locations as are necessary throughout the state and has determined that each of the following listed parcels of land, described in those Exhibits designated, identified and listed by an alphabetical exhibit reference under "CONTROLLED ACCESS" and same being more particularly described in the exhibits attached hereto and such additional lesser estates or property interests described thereon, are necessary and suitable for use for such purposes and it is necessary to acquire fee simple title to said land, as provided by law, as a part of the highway system to be so constructed, reconstructed, maintained, and operated thereon and in the exercise of the police power of the state for the preservation of human life and safety, and under existing laws, the highway to be constructed on each such parcel of land is designated as a Controlled Access Highway, and on such parcels of land listed herein where there is remaining abutting private property, roads are to be built as a part of said highway whereby the right of ingress and egress to or from the remaining private property abutting on said highway is to be permitted and/or denied, as designated and set forth on each of the exhibits attached hereto.

The commission, through its duly authorized representatives, has attempted to negotiate with the owner(s) of the parcels of land described in the attached exhibits and has been unable to agree with such owner(s) as to the fair cash market value thereof and damages, if any, or after diligent search of available records, numerous inquiries, and actual visits to the location of said parcels of land has been unable to locate the owner(s) of same so as to enter into negotiations for the purchase of said parcels of land.

IT IS THEREFORE ORDERED that the executive director is hereby authorized and directed to transmit this request of the commission to the attorney general to file or cause to be filed against all owners, lienholders and any owners of any other interests in said parcels of land, proceedings in eminent domain to acquire in the name of and on behalf of the state, for said purposes, fee simple title to each such parcel of land as are more particularly described in each of the exhibits attached hereto and made a part hereof, and such additional lesser estates or property interests as are more fully described in each of said exhibits, save and excepting, oil, gas and sulphur, as provided by law, to wit:

#### NON-CONTROLLED ACCESS

COUNTY	HIGHWAY	EXHIBIT	ROW CSJ NO.	PARCEL
Austin	SH 36	10	0187-02-059	55
Coryell	US 84	8	0055-03-025	53
Dallas	Loop 12	11	0353-05-105	5, 5TE
Hidalgo	FM 1924	4	1802-01-035	9
Hunt	US 380	1	0135-07-037	53
Hunt	US 380	2	0135-07-037	79E
Hunt	US 380	3	0135-07-037	77E

## NON-CONTROLLED ACCESS (continued)

COUNTY	HIGHWAY	EXHIBIT	ROW CSJ NO.	PARCEL
Tarrant	SH 26	6	0363-01-126	9
Tarrant	SH 26	9	0363-01-126	81
Tarrant	SH 26	5	0363-01-126	89
Tarrant	US 377	7	0081-02-061	8E, 8TE

## CONTROLLED ACCESS

COUNTY	HIGHWAY	EXHIBIT	ROW CSJ NO.	PARCEL
Collin	US 75	U	0047-14-057	45
Dallas	IH 635	T	2374-01-151	19
Erath	US 67	J	0079-08-002	18
Henderson	US 175	V	0198-02-028	92
Midland	SH 349	N	0380-18-002	22
Montgomery	IH 45	O	0675-08-089	131
Montgomery	IH 45	F	0675-08-089	125
Montgomery	IH 45	E	0675-08-089	123
Montgomery	IH 45	Q	0675-08-089	154
Montgomery	IH 45	R	0675-08-089	166
Montgomery	IH 45	A	0675-08-089	133
Montgomery	IH 45	B	0675-08-089	146
Montgomery	IH 45	C	0675-08-089	124
Montgomery	IH 45	P	0675-08-089	12
Montgomery	IH 45	G	0675-08-089	165
Montgomery	IH 45	H	0675-08-089	126
Montgomery	IH 45	D	0675-08-089	127
San Jacinto	US 59	K	0177-02-072	42
San Jacinto	US 59	L	0177-02-072	18
San Jacinto	US 59	I	0177-02-072	40
Webb	Cuatro Vientos		S 0922-33-109	3
Williamson	SH 195	M	0440-01-037	41, 41E

**c. Highway Designation**

**Bell County** – Remove State Spur 253 from the state highway system and return it to the City of Belton for control, jurisdiction, and maintenance (MO)

111189  
TPP

In BELL COUNTY (county) in the city of Belton (city), city officials have requested the removal of STATE SPUR 253 (SS 253) from the state highway system. The city would like to incorporate the roadway into its street system and has requested control, jurisdiction, and maintenance of SS 253.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended that SS 253 be removed from the state highway system and returned to the city.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that SS 253 is removed from the state highway system from the intersection of SH 317 southeastward to the intersection of I-35, a distance of 0.609 mile, and returned to the city for control, jurisdiction, and maintenance.

**d. Load Zones & Postings**

**Various Counties – Revise load restrictions on the state highway system**

**(1) Roadways (MO)**

111190  
CST

The Texas Transportation Commission (commission) under provision of Texas Transportation Code §621.102, may set the maximum gross weight of a vehicle and its load, maximum gross weight of a combination of vehicles and loads, maximum axle load, or maximum wheel load that may be moved over a state highway or a farm or ranch road if the commission finds that heavier maximum weight would rapidly deteriorate or destroy the road.

Pursuant to §621.102, a maximum weight or load may not exceed the maximum set by statute for that weight or load. This section does not apply to a vehicle delivering groceries, farm products, or liquefied petroleum gas.

An engineering and traffic investigation has been made on the state highway system to determine and fix the maximum loads to be transported or moved on, over or upon the roads of the highway system.

It has been determined from this investigation that the loads on certain sections of roads of the state highway system should be restricted or previous restrictions should be revised or removed.

IT IS THEREFORE ORDERED by the commission that the maximum load limits which may be transported or moved on, over or upon the roads described in Exhibit A be fixed, revised, or removed for the month of December 2007, as set forth therein, superseding any portion of a previous action in conflict. The executive director shall proceed with the erection, revision or removal of signs as appropriate, making the removal of this load limitation effective and operative.

Note: Exhibit A on file with minute order clerk.

**(2) Bridges (MO)**

111191  
BRG

The Texas Transportation Commission (commission) under provision of V.T.C.A., Transportation Code, §621.102, may set the maximum gross weight of a vehicle and its load, maximum gross weight of a combination of vehicles and loads, maximum axle load, or maximum wheel load that may be moved over a state highway or a farm or ranch road if the commission finds that heavier maximum weight would rapidly deteriorate or destroy the road or a bridge along the road.

Pursuant to §621.102, a maximum weight or load may not exceed the maximum set by statute for that weight or load. This section does not apply to a vehicle delivering groceries, farm products, or liquefied petroleum gas.

An engineering and traffic investigation has been made to determine and fix the maximum loads that may be moved over the state highway system.

It has been determined from this investigation that the loads on certain bridges of the state highway system should be restricted or previous restrictions should be revised or removed.

IT IS THEREFORE ORDERED by the commission that the maximum load limits which may be moved over the bridges described in Exhibits A be placed, revised, or removed as set forth therein, superseding any portion of previous action in conflict. The executive director shall proceed with the erection of signs as appropriate, making the placement of these load limitations effective and operative.

Note: Exhibit A on file with minute order clerk.

**e. Right of Way Dispositions and Donations**

**(1) El Paso County – FM 76 south of Carolina Drive in El Paso – Consider the sale of surplus right of way (MO)**

111192  
ROW

In the city of El Paso, EL PASO COUNTY, on FARM TO MARKET ROAD 76, the State of Texas (state) acquired certain land needed for state highway purposes by instrument recorded in Volume 3335, Page 1161, Deed Records of El Paso County, Texas.

A portion of the land (surplus land), described in Exhibit A, is no longer needed for a state highway purpose.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend the sale of surplus land.

Raul Mendoza is an abutting landowner and has requested that the surplus land be sold to him for \$12,082.

The commission finds \$12,082 to be a fair and reasonable value for the state's rights, title and interest in the surplus land.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to Raul Mendoza for a cash consideration of \$12,082; **SAVE AND EXCEPT**, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

Note: Exhibit A on file with minute order clerk.

**(2) Gregg County – SH 31 at US 259 in Kilgore – Consider the exchange of right of way (MO)**

111193  
ROW

In the city of Kilgore, GREGG COUNTY, on STATE HIGHWAY 31, the State of Texas (state) acquired certain land for state highway purposes by instrument recorded in Volume 884, Page 81, Deed Records of Gregg County, Texas.

A portion of the land (surplus land), described in Exhibit A, is no longer needed for a state highway purpose.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend the exchange of surplus land as whole or partial consideration for other land needed for a state highway purpose.

Land needed for a state highway purpose (new land), described in Exhibit B, has been conveyed to the state by Triple E Properties, a Texas general partnership, and Roy Nicholas Hearne (owners) who are also the abutting landowners of the surplus land. The owners have requested that the surplus land be conveyed to them and will pay to the state the \$3,972 difference in value between the value of the surplus land and that of the new land pursuant to an executed exchange agreement.

It is the opinion of the commission that it is proper and correct that the state convey the surplus land to the owners in exchange and as consideration for the conveyance of the new land and the cash payment of \$3,972 to the state.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to Triple E Properties, a Texas general partnership, and Roy Nicholas Hearne in exchange and as consideration for the conveyance of the new land and the cash payment of \$3,972 to the state; **SAVE AND EXCEPT**, however, there is excepted and reserved herefrom all of the state's rights, titles and interest, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

Note: Exhibits A and B on file with minute order clerk.

(3) **Harris County** – US 290 at Wortham Center Drive – Consider the sale of surplus access rights (MO)

111194  
ROW

In HARRIS COUNTY, on US 290, a designated controlled access highway, the State of Texas owns and controls certain access rights to the highway facility to and from the abutting lands.

A portion of the access rights (surplus access rights), shown on Exhibit A, is no longer needed for a state highway purpose.

Wortham Development, Ltd., a Texas limited partnership (Wortham), owner of a 38.26 acre tract of land conveyed by deed recorded under County Clerk's File No. R725567, Official Public Records of Real Property, Harris County, Texas (Wortham Tract), is the landowner abutting the property line along which access is proposed to be released and has requested that the state sell the surplus access rights to Wortham for \$297,340.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend the sale of surplus access rights to the abutting landowner.

The Texas Department of Transportation has determined that the sale of the surplus access rights is not expected to compromise the safety or add traffic volume in an amount to exceed the capacity of the existing highway.

It is the opinion of the commission that it is proper and correct that the state sell the surplus access rights to Wortham for a cash consideration of \$297,340.

NOW, THEREFORE, the commission finds that the surplus access rights are no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument granting the state's interest in the surplus access rights to Wortham Development, Ltd., a Texas limited partnership, for a cash consideration of \$297,340.

IT IS FURTHER ORDERED that the surplus access rights will be exclusive to the Wortham Tract, and nothing in this order shall be construed to directly or indirectly approve conveyance of access rights to the properties abutting the Wortham Tract.

Note: Exhibit A on file with minute order clerk.

**(4) Johnson County – Park Road 21 (old alignment of old SH 174) at County Road 1226 – Consider the sale of surplus right of way (MO)**

111195  
ROW

In JOHNSON COUNTY, on PARK ROAD 21, the State of Texas acquired certain land needed for state highway purposes by instruments recorded in Volume 357, Page 248; Volume 357, Page 208; and Volume 356, Page 360, Deed Records of Johnson County, Texas.

A portion of the land (surplus land), described in Exhibit A, is no longer needed for a state highway purpose.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend the sale of surplus land.

Johnson County has requested that the surplus land be sold to the county for \$5,585.

The commission finds \$5,585 to be a fair and reasonable value for the state's rights, title and interest in the surplus land.

NOW, THEREFORE, in accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the commission finds that the surplus land is no longer needed for a state highway purpose and that the value of the surplus land is less than \$10,000 and authorizes the executive director to execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to Johnson County, Texas, for \$5,585; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

Note: Exhibit A on file with minute order clerk.

**(5) Smith County – 3306 SH 155 in Tyler – Consider the sale of a surplus maintenance site (MO)**

111196  
ROW

In the city of Tyler, SMITH COUNTY, at 3305 STATE HIGHWAY 155, the State of Texas (state) acquired certain land for a maintenance site by instrument recorded in Volume 713, Page 445, Deed Records of Smith County, Texas.

The land and the improvements (surplus land), described in Exhibit A, are no longer needed for a state highway purpose.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, as amended, the Texas Department of Transportation may recommend the sale of real property which is no longer needed for a state highway purpose.

The City of Tyler has requested that the state sell the surplus land to the city for \$495,000.

The Texas Transportation Commission (commission) finds \$495,000 to be a fair and reasonable value for the state's rights, title and interest in the surplus land.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to the City of Tyler, Texas, for \$495,000; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

**f. Speed Zones**

**Various Counties – Establish or alter regulatory and construction speed zones on various sections of highways in the state (MO)**

111197  
TRF

Transportation Code, §545.352 establishes prima facie reasonable and prudent speed limits for various categories of public roads, streets and highways.

Transportation Code, §545.353 empowers the Texas Transportation Commission (commission) to alter those prima facie limits on any part of the state highway system as determined from the results of an engineering and traffic investigation conducted according to the procedures adopted by the commission.

The Texas Department of Transportation (department) has conducted the prescribed engineering and traffic investigations to determine reasonable and safe prima facie maximum speed limits for those segments of the state highway system shown in Exhibits A and B.

Exhibit A lists construction speed zones in effect when signs are displayed within construction projects. The completion and/or acceptance of each project shall cancel the provision of this minute order applying to said project and any remaining construction speed zone signs shall be removed.

Exhibit B lists speed zones for sections of highways where engineering and traffic investigations justify the need to alter the speeds.

It has also been determined that the speed limit on one segment of the state highway system, previously established by the commission by minute order and listed in Exhibit C, is no longer necessary or has been incorporated by the city which has the authority to set the speed limit on this section of the highway.

IT IS THEREFORE ORDERED by the commission that the reasonable and safe prima facie maximum speed limits determined in accordance with the department's "Procedures for Establishing Speed Zones" and shown on the attached Exhibits A and B are declared as tabulated in those exhibits. The executive director is directed to implement this order for control and enforcement purposes by the erection of appropriate signs showing the prima facie maximum speed limits.

IT IS FURTHER ORDERED that a provision of any prior order by the commission which is in conflict with a provision of this order is superseded to the extent of that conflict, and that the portion of the minute order establishing the speed zones shown on the attached Exhibit C are canceled.

Note: Exhibits A through C on file with minute order clerk.

**ITEM 16. Executive Session Pursuant to Government Code, Chapter 551**

- a. Section 551.071 - Consultation with and advice from legal counsel**
- b. Section 551.072 - Discussion of real property purchase, exchange, lease, donations**
- c. Section 551.074 - Discuss the evaluation, designation, reassignment, and duties of department personnel, including district engineers, division directors, and office directors.**

The commission did not meet in executive session.

**OPEN COMMENT PERIOD**

The commission did not receive any open comments.



The regular meeting of the Texas Transportation Commission adjourned at 1:15 p.m.

APPROVED:

---

Chair  
Texas Transportation Commission

XXX

I hereby certify that the above and foregoing pages constitute the full, true and correct record of all proceedings and official records of the Texas Transportation Commission at its regular meeting on November 15, 2007, in Austin, Texas.

---

Dee Hernandez, Chief Minute Clerk  
Texas Department of Transportation